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Current Topics.

International Law.

THE Grotius Society, whose two-day conference at Burlington House was announced in these columns on the 22nd April (*ante*, p. 142), are to be congratulated on the conclusion of a successful experiment, and further public discussions by their great experts on international law will no doubt be held. Representatives of almost all the allied nations took part in the discussions. Sir CECIL HURST, the president, said that international law consisted of the aggregate of the rules determining the rights which States are entitled to claim against other States, and determining the correlative duties owed by states to one another. These rules, he said, were binding on States because they were States, not because they had consented to be bound by such rules. Subjection to the rules of international law was a necessary consequence of Statehood. LORD FINLAY said it was difficult for the rules of law to stand the strain of the exigencies of modern war. Professor A. L. GOODHART said that there could be no neutrality in acceptance of international law. This principle would be a painful wrench for international lawyers, a large part of whose living was concerned with neutrality, but that was a sacrifice they could make in the interests of peace. If we could get international monetary agreement and agreement on international airways we should have gone a long way to strengthen international bonds and intercourse. Whether the world was prepared to take the final step of creating a world authority with compulsory powers to adjudicate on international disputes was open to doubt. Dr. E. ZASLAWSKI (Poland) urged that the international organisation should not be monopolised by the great powers. Dr. C. JOHN COLOMBOS on "The Shape of Things to Come," codified all the relevant declarations of governments and individual statesmen on the organisation and functions of the future international authority. Mr. W. HARVEY MOORE, in criticism of a recent statement by Mr. CORDELL HULL, said that the judicial function should be put before the executive function, as "the international or any other policeman is none other than a thug unless he is responsible to a just judge." The value of the contribution of these and similar discussions to the cause of future world peace is incalculable.

Domicile and Divorce.

SIR ELLIS HUME-WILLIAMS, K.C., started an important public discussion in his letter to *The Times* of 24th April on "Domicile and Divorce." As Sir ELLIS indicated, the problem of the woman who has married a man not domiciled in this country and who is deserted by him is serious, and may reach an acute stage at no distant future date, owing to the number of American and Dominion soldiers at present in the United Kingdom. Sir ELLIS asked whether it would not be fairer that the woman should maintain her English domicile unless and until she resided with her husband in his or some other country of his choice. The husband would retain his own domicile. Sir THOMAS MOORE, M.P., gave a forceful example of the cruel working of the law as it stands at present in a letter to *The Times* of 2nd May. In a letter on 3rd May, Mr. M. G. BILLSON pointed out that an English wife of a Canadian cannot claim maintenance here if her husband has deserted her and returned to Canada as the Maintenance Orders (Facilities for Enforcement) Act, 1920, does not apply to Canada. It should, he said, be extended to all Dominions. Mr. A. P. HERBERT, M.P., who (*inter alia*) will be remembered for his having promoted the Matrimonial Causes Act, 1937, wrote in *The Times* of 4th May the interesting information that the point was one of the many points which members were advised, quite rightly, to leave alone during the passage of the 1937 Act, "as time was short and our other troubles many." He said that he got "numerous and piteous letters about it," but private members' time had been taken away. It may well be that a conflict of laws would arise if the law of this country were altered in this respect, but international arrangements, particularly between Dominions and a Mother Country, have surmounted worse conflicts in the past. The necessary alteration in the law seems to be no more serious than was the overruling of *Yelverton* v. *Yelverton* (1859), 1 Sw. & Tr. 574, by s. 13 of the Matrimonial Causes Act, 1937, conferring divorce jurisdiction on the court where a wife has been deserted by her husband who then changes his domicile, or whose husband has been deported under the aliens' law. Where the happiness or misery of so many people is in the balance, there should be no technical objections to amending legislation.

Legal Aid.

THE present discontents of solicitors in the matter of legal aid for the poor were well described in a letter by an anonymous solicitor to the *Manchester Guardian* of 25th April. The majority of poor persons cases, he wrote, are undefended divorces. Before the solicitor can lay papers before counsel to settle the petition and advise on evidence he has to collect the evidence, a job often involving many hours of labour including investigations, attendances on witnesses, sifting what is and what is not relevant, and a good deal of correspondence. In an undefended poor person's case the writer conducted recently he wrote no less than seventy-two letters and prepared several lengthy documents (without recourse to counsel), as the offending husband could not be found. His reimbursement for out-of-pocket expenses—postages, stationery, telephone calls and clerks' time—was £2 2s. If anything went wrong, he added, judges were down upon the solicitor who had prepared the case, not upon counsel who conducted it. Further, there were only a limited number of solicitors available for this work—those who confined themselves to conveyancing and trust work refused to do it. It was misleading that the public should be allowed to think that one branch of the profession was getting a financial advantage over the other. Speaking from his own experience, the writer said, one got more ingratitude than gratitude for one's free services. People did not believe that a lawyer did something for nothing. So it would be better if the work were paid for in a straightforward way by the State. In this connection, Mr. ERIC ERRINGTON, M.P., writing to *The Times* of 6th May, stated that the honorary secretary of the Haldane Society had performed a valuable service to the community in once again bringing to public notice the question of legal aid for those who required it. Since LORD FINLAY's Committee reported against change in 1928, in a number of ways the position had substantially altered, he wrote. There had been an increased demand for social security and there had been many additional enactments and regulations which closely affected the man in the street. The secretary of the Haldane Society suggested in his letter the appointment of a "Royal Commission," which had been truly called the "classic weapon of delay," and in the writer's opinion not much ameliorative action would result from such an appointment. Surely, he wrote, the Government, who were considering the whole question of social security, would not omit from its thought the legal security badly needed to eliminate irreparable disaster from many humble lives. Something must obviously be done soon, for the coming demobilisation of a part of our forces, in a future which we have reason to hope is not too far distant, will present these problems in an acute form.

A National Water Policy.

PROPOSALS for ensuring that all reasonable needs for water by householders, industry and agriculture "can in future be met—and met speedily and without avoidable waste" are made in a White Paper (H.M. Stationery Office, Cmd. 6515, 6d.) presented to Parliament on 18th April by the Minister of Health (Mr. HENRY WILLINK), the Minister of Agriculture and Fisheries (Mr. ROBERT HUDSON) and the Secretary of State for Scotland (Mr. TOM JOHNSTON). "There is in this country ample water for all needs," states the White Paper. "The problem is not one of

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total resources, but of organisation and distribution." The object of the Government's proposals as set out in the paper is the shaping of a national water policy which will ensure a planned and economical use of the resources of the country and efficient administration of supply services. The main proposals are as follows: (1) The Health Ministers, whose powers are at present vague and ill-defined, should be given the express statutory duty of promoting the provision of adequate water supplies and the conservation of water resources. (2) The central planning of water policy should be the function of the Health Ministers; to be based on comprehensive information, systematically collected and assessed (through the Inland Water Survey, Regional Advisory Water Committees and otherwise), regarding water resources and needs; and to be applied by a simplified system of Ministerial orders. Interested parties should have full opportunity to put their views before the Minister and orders on certain matters should be subject to review by Parliament by reason of their intrinsic importance or because of their effect on the interests of the general public or of individuals. (3) The Government's Central Advisory Water Committee should be reconstituted as a statutory body. It will advise not only on matters referred to it by any Government department, but also on its own initiative on any question within its ambit. A somewhat similar body should be set up for Scotland. (4) Surveys of the efficiency of water supply services should be carried out regularly by expert central staffs. (5) The framework of existing local organisation is to be retained, but default and directing powers of the Minister of Health are to be strengthened. The amalgamation of undertakings is to be encouraged and, if necessary, enforced, to secure efficiency and economy. (6) Special steps are to be taken to protect water resources, especially underground water, against misuse, waste and pollution. (7) Industry and agriculture are to be given the right to obtain water on reasonable terms and conditions. (8) Exchequer grants totalling £15,000,000 for England and Wales and £6,375,000 for Scotland for the extension of piped water supplies and sewerage in rural areas will have to be provided. It is stated that in advance of general legislation, a Bill is to be presented to Parliament this session authorising the grants for water supply and sewerage in rural areas, as part of the general reconstruction programme. The Government's proposals are based for the most part on the reports of the Central Advisory Water Committee under the chairmanship of Field-Marshal LORD MILNE. In framing their proposals, it is stated, the Government have been guided by three broad general principles: (1) There should be adequate control of water supply services, but this should be increased and other changes made only where change can be justified by greater efficiency or reduction of costs. (2) The responsibility for water supply should rest with democratic bodies at the centre with Ministers responsible to Parliament; at the circumference (without unnecessary change in the present organisation of statutory undertakers) with the responsible local authorities. (3) Sectional interests should be subordinate to the national interest, but all whose interests are affected by water development schemes should have a right to be heard by the Minister or, where appropriate, by Parliament. Part II of the paper deals with river boards. It indicates that the Government accept in principle, as regards England and Wales, the recommendations of the Central Water Advisory Committee that new river boards, 29 in all, should be set up to take over the land drainage functions of the existing catchment boards, the pollution prevention powers exercised at present by about 1,600 separate authorities, and the control of fisheries, and propose as part of their programme to prepare a Bill to give effect to them.

Bankruptcy Taxation.

A REMINDER to solicitors of the importance of strict compliance with the Bankruptcy Rules, and in particular rr. 108A and 109, is contained in the March issue of *The Law Society's Gazette*. Rule 108A was added by the Bankruptcy (Amendment) Rules, 1940, and it requires a committee of inspection, when authorising the trustee, in pursuance of s. 56 of the Bankruptcy Act, 1914, to employ a solicitor to take any proceedings or to do any business, to specify a maximum limit to the costs to be incurred. Rule 109 was amended by the 1940 Rules to require the limits specified under r. 108A to be mentioned in the resolution or other authority sanctioning the solicitor's employment, a copy of which, under that rule, has to be produced to the taxing officer. Where no limit has been so stated, the registrar appears to have no power to tax the solicitor's bill. If, however, the committee of inspection did in fact consider the limit of costs, but did not specify the limit in the resolution sanctioning the employment, the taxing officer has been willing, it seems, to proceed to taxation on satisfactory proof that this has been the case. The Council of The Law Society emphasises that if the committee of inspection have not considered or fixed the limit at the time of sanctioning the employment, it seems probable that the costs cannot be taxed. The only available course would appear to be an application to the court, but it is doubtful whether a judge has any power to override the rule. The Council cites what it believes to be the only case in which an application of this nature was made to the court. This was to the judge of the county court at Newcastle-upon-Tyne, and the applicant asked for (*a*) an extension of time to fix the limit under s. 109 (4) of the Bankruptcy Act, or (*b*) an order that notwithstanding the omission to fix a limit the registrar be directed to tax the costs and issue an allocatur. His Honour held that the case did not come within the terms of the section, but, while expressing some doubt as to his power to override the rule, made an order in the circumstances of the case in the alternative, and ordered the solicitors concerned to pay their own costs of the application. Readers who refer back to a recent informed article on this topic from one of our contributors (see our issue of 25th March, 1944, *ante*, p. 107), will find that the writer advised "the cautious solicitor" to ask for a copy of the resolution as soon as he was instructed, in order to verify that there had been compliance with r. 108A, and when the limit was exhausted at once to request the trustee to obtain the necessary resolution to increase the limit. If this advice is carefully followed, no complications need result.

The Jury in U.S.A.

THE principles of our jury system, like so much of the English common law, forms the basis of most of the State systems in the U.S.A. This is the theme of an article in the *Oregon Law Review* for December, 1943, which commences: "Trial by jury is the greatest contribution made by the English common law to the administration of justice." The article is a reprint of a report prepared by a committee appointed by the section of Judicial Administration of the American Bar Association to study the judge-jury relationship in the State courts and published by the Section in August, 1942. The report was mainly written by Justice GEORGE ROSSMAN of the Supreme Court of Oregon and Judge VAN BUREN PERRY of South Dakota. The article lays stress on the necessity for dignified bearing in a judge and for a sense of solemn responsibility in jurors. As methods of inculcating this sense which well deserve imitation here, the report instances the talks given by judges to juries on the first sitting day and the booklets or primers dealing with the duties of juries, which are sometimes presented by judges to all juries sitting with them. Many an advocate will understand the description (given by Judge SOPER) of a good summing-up: "Everyone is aware that an impartial official, the one unbiassed person in the courtroom best qualified to pass judgment, is striving to sort out the tangled skeins of controversy and simplify the issues, so that the jury may pass upon them with understanding." Judges are exhorted to avoid the use of technical terms, such as the word "proximate" in negligence cases. The report also contains the interesting recommendation that the judge should appoint the foreman, and give him special instructions on his duties, and that he should hand to the foreman, a succinct, enumerated statement of the issues. In order to maintain a high degree of intelligence in the jury service the report recommends the appointment by the judges of jury commissioners to select those eligible for jury service. The report concludes with a warning, equally applicable in this country, against the rivalry of administrative tribunals, and of the necessity of saving the jury from encroachments, so that "there is no thought that the jury is tinged with the political policy of an appointive power." "Such an institution," the report says, "is worth saving and strengthening and its usefulness is deserving of expansion." We respectfully agree.

Recent Decisions.

In *Woodward* v. *Hastings Corporation and Others*, on 2nd May (*The Times*, 3rd May), HALLETT, J., held that the fourteen governors of a grammar school were a public authority, as eight of them were members of the defendant corporation and the mayor for the time being was an *ex officio* governor, and any deficiency resulting from the expense of carrying on the school was met out of the rates, with a 50 per cent. contribution from Whitehall. The action was therefore barred by reason of s. 21 of the Limitation Act, 1939.

In *Commissioners of Inland Revenue* v. *Terence Byron, Ltd.*, on 4th May (*The Times*, 5th May), the Court of Appeal (SCOTT, GODDARD and DU PARCQ, L.JJ.) held that where a theatre at which the respondents carried on business was destroyed by enemy action on 7th May, 1941, it remained, notwithstanding its destruction, an asset within the Finance (No. 2) Act, 1939, Sched. VII, Pt. II, para. 1 (i), and that as it had been acquired by purchase it was required to be included at the purchase price in the computation of the amount of the capital employed in the trade or business for the whole of the chargeable accounting period under ss. 13 (3) and 14 (2) of the Finance (No. 2) Act, 1939.

In *Cunningham-Reid* v. *Public Trustee*, on 5th May (*The Times*, 6th May), the Court of Appeal (THE MASTER OF THE ROLLS, MACKINNON and LUXMOORE, L.JJ.) held that where premises were let to the defendant and S for the purposes of a political club, and the lease contained a joint and several covenant by them for the payment of rent, which was paid equally by them until the death of S, after which his share was paid by S's executors, it was plain that a legal joint tenancy was created; s. 34 (2) of the Law of Property Act, 1925, did not operate, and the appellant was not entitled to payment of half the rent by the executors of S.

The Conservators of the River Thames.

Prevention of Pollution.

In the House of Commons, on Wednesday, the 3rd May, Mr. Willink, the Minister of Health, in introducing the recent Government White Paper on "A National Water Policy," *inter alia*, said (*The Times*, 4th May): ". . . for the first time, there would be a small number of strong and effective authorities responsible for the whole length of the rivers. We should have all over the country an organisation of which the Thames Conservancy was a very fine prototype."

At a later stage in the debate Mr. R. S. Hudson, Minister of Agriculture, added that "one of the great problems of increasing importance was that of river pollution."

In the light of these significant comments from such important sources it might be of interest to discuss in some detail what are the powers and duties of the Conservators of the River Thames (Thames Conservancy) for the prevention of pollution.

The Conservators were originally incorporated by the Thames Conservancy Act, 1857, under which Act a limited jurisdiction with regard to the prevention of pollution was conferred on the Board. Their powers and duties were subsequently extended by various Acts, and finally consolidated in the Thames Conservancy Act, 1932, and the portion of the latter Act dealing with this subject is Pt. V, ss. 119–133.

The jurisdiction of the Conservators for the purpose in question covers some 3,812 square miles and extends to parts of no less than fourteen counties. The importance of their activities cannot be too strongly emphasised when it is mentioned that the Metropolitan Water Board takes about two-thirds of its water supply from the River Thames within the Conservators' jurisdiction, and several other water undertakings also obtain water from the Thames or its tributaries.

It might now be appropriate to give a resumé of Pt. V of the Act of 1932, as follows:—

Thames Conservancy Act, 1932—*Sections* 119–133.

Section 119.

(1) Interpretation subsection (*inter alia*):—

"river" includes the River Thames from its rise to the landward limit of the Port of London, i.e., the non-tidal Thames;

"tributary" means and includes the whole and every part of any and every river, stream, watercourse, cut, dock, canal, channel and water communicating either directly or indirectly with the river, and being within the area included within the limits shown on the deposited map;

"deposited map," in effect, is the catchment area map of the non-tidal Thames.

(2) The deposited map is conclusive evidence as to the extent of the area included in the said limits.

Section 120.

Duty of Conservators by all lawful and proper means to preserve flow and purity of water of the river and its tributaries and to cause surface of river and its tributaries within three miles of the river to be (as far as reasonably practicable) effectually scavenged.

Section 121.

(1) (*a*) Ballast, rubbish, etc., not to be thrown into river or tributaries.

(*b*) Oil or tar not to be caused or suffered to flow or pass into river or tributaries.

Penalty: Not exceeding £50 and a daily penalty of £10.

Proviso: Local authority not deemed to have committed offence under para. (*b*) in construction, maintenance or repair, of highways if reasonable preventive measures taken.

(2) Master and owner of a vessel liable to be proceeded against under this section, but both cannot be punished for the same offence.

Section 122.

(1) Ballast or any stones, earth, mud, ashes, dirt, refuse, soil or rubbish not to be deposited so as to drain, be blown or pass into river or any tributary by floods, tides, etc. Conservators may serve notice requiring removal of same or steps to prevent such depositing.

(2) Person not complying with notice may be summoned before court of summary jurisdiction to show cause why requirement not complied with. Court may order removal within period not exceeding one month. Conservators' reasonable costs in the matter to be paid.

(3) Penalty for disobeying order of court: Not exceeding £5—daily, 40s. Conservators may do work and recover expenses from person concerned.

Section 123.

No person shall without lawful excuse (the proof whereof shall lie upon him):—

(*a*) Open into the river or any tributary any sewer, drain, pipe, or channel whereby sewage or any offensive or injurious matter, whether solid or fluid, shall or is likely to flow or pass into the river or into such tributary.

(*b*) Wilfully cause or knowingly suffer any sewage or any offensive or injurious matter, whether solid or fluid, to flow or pass into the river or into any tributary.

Penalty: Not exceeding £100—daily £50 in each case.

Proviso: This section shall not prevent the opening into the river or tributary of any sewer, drain, etc., connecting with works constructed by a local authority after 1st January, 1925, with the approval of the Ministry of Health for purification of sewage, but it does not authorise the passage of any offensive or injurious matter through such drain, etc.

Further proviso: Paragraph (*b*) not to apply to any sewage, etc., so flowing into river or tributary through sewer, drain, pipe or channel which on the 17th August, 1894, was lawfully used for that purpose.

Section 124.

(1) Whenever sewage or any offensive or injurious matter is caused or suffered to flow into the river or any tributary, the Conservators may and (as regards the flow, etc., of sewage, etc., into any tributary situate within the Counties of Bedford, Northampton, Warwick, Worcester, East Sussex or West Sussex) shall give notice in writing to discontinue within a period of not less than three months.

(2) Conservators may extend time under notice if they think fit by another notice in writing.

(3) Any person aggrieved by reason of notice being in his opinion insufficient may demand an extension of time, and in the event of the Conservators refusing to comply the matter is referred to an arbitrator (to be appointed by agreement or, failing agreement, by the Minister of Health, on the application of either party) who shall have power to extend time.

(4) Person under notice to discontinue flow, etc., within the time allowed, and in default to be guilty of a misdemeanour and liable to be summoned accordingly.

Penalty: Not exceeding £100; daily £50.

Proceedings may be removed by *certiorari* into the High Court.

(5) After conviction under this section, Conservators may with sanction of the court which so convicted (but not otherwise) stop up and keep stopped up outlet of sewer, etc., and for that purpose do all works that appear requisite and may enter upon lands. Conservators to recover expenses with costs either summarily or in any court of competent jurisdiction. If any person obstructs or hinders, etc., he shall be liable to a penalty not exceeding £20.

Proviso: No sewer, etc., discharging into river and vested in any local authority shall be stopped up if such local authority has taken or is taking all practical means to secure conviction of actual offender.

(6) Notice under this section shall continue in force notwithstanding temporary suspension of flow of sewage or change of ownership of land and shall affect successive owners, etc., with same obligations.

(7) When notice of discontinuance has been given in respect of manufacturing premises, not situate in a town and for three years after the expiration of time allowed no proceedings have been taken by the Conservators for default, then no proceedings shall be taken unless the Conservators shall have given a renewal or copy of such notice and one month has elapsed after receipt of such notice without the same having been complied with.

Section 125.

Where any sewage or any offensive or injurious matter, etc., passes into the river or into any tributary through any sewer, drain, pipe or channel vested in a sanitary authority, the sanitary authority shall be deemed knowingly to suffer the same.

Proviso: No liability if sanitary authority has taken or takes all practical means to prevent the passage or to procure the conviction of the actual offender.

Section 126.

(1) Conservators and their officers on production of appropriate authority may enter, examine and lay open and inspect lands or premises between hours of 9 a.m. and 4 p.m.

(2) Application to court of summary jurisdiction if (after notice) permission to enter refused, and court may make appropriate order.

(3) Order made under this section to continue in force until examination complete.

(4) Refusal to obey order: Penalty not exceeding £5.

(5) After completion of examination Conservators to fill in and make good surface of land and restore same as near as may be to former condition.

(6) Compensation for damage caused by entry; dispute as to damage or compensation, in default of agreement, to be ascertained by and recovered before court of summary jurisdiction.

Section 127.

Sanitary authorities, owners and occupiers of land within area of deposited map, on, in, through or under which any sewer or drain is situate, shall within twenty-eight days after application in writing made to them by the Conservators—

(*a*) produce for inspection plans of such sewer or drain;

(*b*) furnish copies at reasonable charges ;
(*c*) furnish information as to sewer, etc., ownership of, and control over the same.
Penalty for default not exceeding £5.

Section 128.
Conservators and their officers on production of authority, if required, may once in every year, inspect sanitary arrangements of vessels (or oftener if reasonable cause to suspect alteration since last inspection) on the River Thames above Teddington Lock, to ascertain whether sewage, etc., can pass into Thames therefrom.

Section 129.
(1) Persons cutting and employers knowingly suffering employees to cut weeds, etc., in the river or in any tributary, to remove such weeds, etc., after cutting, to prevent decay, and contamination of river or tributary.
(2) No weeds, grass, etc., to be thrown or swept into river or any tributary.
(3) Penalty for contravention ; not exceeding £5.

Section 130.
Right to prosecute under the Act as regards pollution to be in Conservators, their officers, solicitors or agents only.

Section 131.
Act not to legalise nuisances or affect other remedies.

Section 132.
(1) On complaint being made to Minister of Health by the Conservators that any sanitary authority within the limits shown on deposited map which is liable to floods has not exercised their duties, etc., in cleansing of cesspools, etc., Minister may call for explanation. If explanation insufficient Minister may make order.
(2) Minister may hold inquiry for purposes of this section.

Section 133.
Nothing in provisions of this Act relating to pollution shall prevent the use of streams, etc., for cultivating watercress.
N.B.—By s. 238 of the Thames Conservancy Act, 1932, every person who obstructs, etc., Conservators or officers, etc., in execution of duty shall be liable to a penalty not exceeding £5.

On consideration of the above, it will be observed that only the Conservators, their officers, etc., are empowered to institute proceedings under Pt. V of the Act, and it follows therefore that the Board are the sole authority charged with the prevention of pollution in the non-tidal Thames catchment area under such Act.

The Conservators do not administer the Rivers Pollution Prevention Acts, 1876 and 1893, but the Act of 1876 (s. 18) contains a saving clause in favour of the Conservators. In connection therewith it should, perhaps, be mentioned that the third report of the Central Advisory Water Committee (River Boards), which recommends the setting up of the new River Boards referred to by the Minister of Health in his speech, advises that such new Boards be given the powers of a sanitary authority under the Rivers Pollution Prevention Acts mentioned.

As regards the enforcement of the Conservators' pollution prevention powers, it will be observed that proceedings under Pt. V of the Act of 1932 (except for one exception under s. 124 (4)) have to be instituted in a court of summary jurisdiction for the imposition of penalties (or, in certain cases, the making of orders) as provided in the various sections. By contrast under the Acts of 1876 and 1893, proceedings are taken in the county court and penalties are only imposed in default of compliance with the court's order.

It is also important to notice that many defences and excuses are open to a defendant under the Rivers Pollution Prevention Acts with which he could not avail himself when charged with offences under the Act of 1932. From the point of view of efficient administration in preventing pollution, it would most certainly appear that Pt. V of the Thames Conservancy Act, 1932, is much more effective and satisfactory than the Rivers Pollution Prevention Acts, as Parliament has recognised.

No standard of purity as regards samples of effluents and so on is prescribed by the Act of 1932. It is a question in each case whether the discharge is sewage or offensive or injurious within the meaning of the Act, which question, in case of dispute, can only be decided by the court. Neither is any distinction made in the application of the Act, as regards any differences in local conditions, such as the volume of the stream water receiving the discharge or the distance of the polluted stream from the main river.

In conclusion, prosecutions under the Act of 1932 or under previous Acts now repealed, mainly related to questions of fact, and, in consequence, case law thereon is scanty. However, the reader who is interested is referred to the following interesting cases which relate to sections repealed but re-enacted in the Act of 1932 or sections in other private or public Acts to the same effect, viz. : *R.* v. *Staines Local Board* (1889), 60 L.T. 261 ; *Thames Conservators* v. *Gravesend Corporation*, 100 L.T. 964 ; *Mayor, etc., of High Wycombe* v. *The Conservators of the River Thames*, 78 L.T. 463 ; *Rochford R.D.C.* v. *Port of London Authority* (1914), 111 L.T. 207 ; *Kirkheaton District Local Board* v. *Ainley*, 67 L.T. 209 ; *Butterworth* v. *West Riding of Yorkshire Rivers Board*, 100 L.T. 85 ; *Lee Conservancy Board* v. *Leyton Urban District Council*, 95 L.T. 487.

A Conveyancer's Diary.

Trustee Act, s. 31.

SECTION 31 of the Trustee Act, 1925, is mainly thought of as the provision under which trustees nowadays act when they pay out income to which an infant is entitled for the maintenance or education of that infant. A power for this purpose is in fact conferred on trustees by para. (i) of subs. (1), which is not substantially different from the corresponding part of the Conveyancing Act, 1881, s. 43, the section's predecessor. There is, however, a good deal more in the section than that.

The first thing to be noted is that the section does not apply in respect of interests created by instruments which came into operation before 1st January, 1926 (subs. (5)). Such interests are still governed by s. 43 of the Act of 1881, and so it will still be necessary for many years yet to refer to that section in many cases.

The next point is that by subs. (3) it is provided that the section applies to a contingent interest only if the limitation or trust carries the intermediate income. It also applies to a future or contingent legacy where the testator is the parent of the legatee or is *in loco parentis* to him, if and so long as, under the general law, the legacy carries interest for the maintenance of the legatee, and the interest is to be taken at the rate of 5 per cent. if there is enough income to provide it.

Returning to subs. (1), we find the following introductory words, which are not quite as wide as they seem in view of subss. (3) and (5) : "Where any property is held by trustees in trust for any person for any interest whatsoever, whether vested or contingent, then, subject to any prior interests or charges affecting that property . . ." Then follow two paragraphs, the first of which deals with maintenance and need not detain us. The second comprises the rather remarkable provision that if the *praepositus* still has not a vested interest in the income on attaining twenty-one (as for instance if vesting is postponed till he attains twenty-five) then the income of the property and of any accretions is to be paid to him until he either attains a vested interest or dies or his interest fails. This paragraph is mandatory ; it is not a matter left to the trustees' discretion.

Subsection (2) returns to the infancy of the *praepositus*. The trustees are directed to accumulate the residue of the income (i.e., the residue after paying maintenance under subs. (1)) at compound interest, in investments authorised for the purposes of the particular trust. Then follow the trusts of the accumulations. First, if the *praepositus* attains twenty-one or marries under that age, and if his interest in such income during infancy or until marriage is a vested one, the accumulations are to be held for the infant absolutely. It is to be noted that this result only follows *even in respect of a vested interest*, if the infant does actually attain twenty-one or marry under that age. Second, the accumulations are held for the infant absolutely if, on his attaining twenty-one or marrying under that age, he becomes entitled absolutely or in tail to the property from which the income arose. That is to say, the infant gets the accumulations at his majority or earlier marriage if he had all along vested interest in the fund itself or if he acquires a vested absolute or entailed interest at the vesting date. In any other case "the trustees shall, notwithstanding that such person had a vested interest in such income, hold the accumulations as an accretion to the capital from which the accumulations arose." That is to say, if the interest is vested and absolute throughout, but the infant dies before attaining twenty-one, the accumulations are added to corpus and do not go, as one might have supposed, to the infant's estate. Again, if the infant's interest is a contingent one and is in income only, and not in corpus, the accumulations of course follow the corpus and are not paid to the infant on his attaining twenty-one. The matter of chief interest is that the estate of a deceased infant is deprived of the accumulations if the infant dies under age and unmarried, even if he had a vested absolute interest, and *a fortiori* if he had only a vested life interest.

This provision was discussed by the Court of Appeal in *Stanley* v. *Inland Revenue Commissioners* [1944] 1 K.B. 255. There an infant had been entitled to a vested interest as tenant for life of certain estates under an instrument coming into force in 1931, to which therefore s. 31 applied. The infant came of age in due course, and the Revenue sent him additional assessments to sur-tax in respect of four of the years of his infancy on the footing that, as things had turned out, he had been entitled all along to the whole of the income of the estate and not only to that which had been applied for his maintenance. The Crown had succeeded before Macnaghten, J., but the decision was reversed by the Court of Appeal. The reserved judgment of the court was read by Lord Greene, M.R. ; it was to the effect that, since sur-tax is a tax on money which is the income of some person, no tax was chargeable here because at no moment in

any of the years of assessment, during all of which the infant was still an infant, was it possible to say that the income was the income of any person. Under the settlement, of course, it was, throughout, the infant's income, but the effect of Trustee Act, s. 31 (2), was to vary the trusts of the settlement and to make it impossible to say, until the infant actually did attain twenty-one, whether the accumulations were to be the infant's (according to the settlement) or whether they were to go over as directed in certain events by the section. The Crown was not assisted by having waited to send the additional assessments until it was known that the infant had in fact become entitled; an additional assessment is only valid if the Revenue could validly have made an assessment in the ordinary way at the ordinary time. By that test, these assessments could never have been made in the first instance. It might be true that under the settlement the infant's right to this income was vested, but the effect of the section was to graft on to the trusts as they stood apart from statute, the rule that accumulations of income from even a vested interest are to go with the corpus if the infant dies under age.

This point does not seem to have been discussed in a previous reported case; the section was of no application in the earlier cases which I can find, because in them the instrument had come into force before 1926. But the decision certainly gives food for thought, since it will mean that infant beneficiaries can in some cases escape liability for sur-tax for several years. Probably this is a good thing, since it will enable the ravages of estate duty to be in part made good. The Solicitor-General is reported to have argued that a decision against the Crown would be unfortunate in that it would mean that the trustees could not obtain relief year by year in respect of the money expended on maintenance, which might be a hardship in the case of a small vested interest. This argument is difficult to follow. No doubt the trustees will have to pay income tax (though of course not sur-tax) on the whole income, year by year, at the standard rate. If they apply some of the income for the infant's maintenance, it becomes his income and effect has then to be given to his allowances. And once the infant is of age he can claim repayment of the appropriate allowances (so far as not already given effect to) under the Income Tax Act, 1918, s. 25. The amount so recovered belongs absolutely to the ex-infant (see *Re Fulford* [1930] 1 Ch. 71).

Landlord and Tenant Notebook.

Rent, etc, Restrictions Acts: Applicability to new Houses.

THE Birmingham Law Society, as was mentioned in "Current Topics" of our issue of 22nd April (88 SOL. J. 138), recently answered a question put by The Law Society, which is to supply evidence before the Inter-departmental Committee on Rent Control, by making eight recommendations. Some of these suggest new provisions designed to do away with anomalies; others ask for declaratory enactments calculated to clarify existing provisions. Most of the "particular points of difficulty" referred to have been discussed in this "Notebook"; not so, however, that referred to in the final recommendation, which runs: "It should be made clear whether houses erected after 1st September, 1939, are to be within the Acts or not." If there be no extensive demand for enlightenment on this point at the moment, there is ample reason for believing that it may one day, and perhaps that day not a very distant one, be of considerable interest; and the Birmingham Law Society is to be congratulated on inviting anticipation of difficulties.

In the case of the older Acts, the problem was first specifically dealt with by s. 8 of the Increase of Rent, etc. (Restrictions) Act, 1919: Neither the principal Act nor this Act shall apply to houses erected after or in the course of erection at the passing of this Act. The then principal Act was the Increase of Rent, etc. (War Restrictions) Act, 1915, and it would appear that a house erected after its commencement would be within its provisions if both its first rent and its first rateable value were low enough. Section 8 of the 1919 Act was replaced by the more comprehensive s. 12 (9) of the Increase of Rent, etc. (Restrictions) Act, 1920: "This Act shall not apply to a dwelling-house erected after or in course of erection on the second day of April nineteen hundred and nineteen, or to any dwelling-house which has been since that date or was at that date being bona fide reconstructed by way of conversion into two or more separate and self-contained flats or tenements . . ." and there followed an elaborate provision designed to secure that control should not reduce rateable value, which provision was found to be unnecessary when *Poplar Union Assessment Committee* v. *Roberts* [1922] 2 A.C. 38 had been decided, and was repealed by the Rent, etc., Restrictions (Amendment) Act, 1933.

The words "in course of erection" might have been expected to lead to difficult problems and reports of border-line cases, but no trouble of this kind appears to have been experienced. It may be that when the Bill was published builders slowed down. The *Estates Gazette Digest* for 1922 reports a decision—*Jones* v. *Ramuz*—that "bona fide reconstructed" applied though building law was being infringed, and this would presumably govern a case in which "erection" was in breach of such law.

"Erection" itself was discussed in the course of *Middlesex County Council* v. *Hall* [1929] 2 K.B. 110, an action for possession, in which the actual decision turned on the question of "alternative accommodation." There was, it appears, an alternative allegation that the subject-matter of the claim was a house which had been formed "by throwing two cottages into one," and a contention that this effected decontrol by virtue of s. 12 (9). On this, Talbot, J., said in his judgment: "We do not think that it [the change effected] would be so called [erection] in ordinary speech, and we think also that the distinction between reconstruction and erection which appears in the subsection is very much against the appellants' [plaintiffs at first instance] argument. If turning one house into two is 'reconstruction' as distinguished from erection, it seems to us that turning two houses into one must be the same." In view of this dictum, perhaps it would be unnecessary to deal expressly with the point in new legislation.

The expression "separate and self-contained," was twice judicially interpreted within a fortnight, *Smith* v. *Prime* (1923), 39 T.L.R. 403, being quickly followed by *Darrell* v. *Whitaker* (1923), 39 T.L.R. 447. In the former, the tenant of (to use a neutral expression) part of a building sued to recover a substantial amount of excess rent. The building, then a dilapidated house, had been bought by the defendant and reconstructed; the plaintiff's case was that, though the result might be considered to be two flats, they were not separate and self-contained flats. He said that they were not separate because there was no partition: the occupier of the upper flat passed over the staircase used by that of the lower. Roche, J., however, interpreted "separate" as "distinct," and held that the presence or absence of a partition would not be conclusive either way on this point. The contention that the flats were not self-contained was based on the fact that bathroom and sanitary accommodation were shared. But the learned judge rejected the suggestion that a flat or tenement was not self-contained unless it contained within itself and within its own ambit all the elements or all the accommodation necessary to make it a separate dwelling-house. His lordship thought "self-contained" must mean something more than "separate," but it was enough if the flat or tenement were within a circle or ambit and not scattered.

In *Darrell* v. *Whitaker* the actual nature of the proceeding was an apportionment summons taken out by a tenant of two upper floors of a four-storeyed building. The ground floor had been converted into a shop and given a separate entrance, the first floor into offices, approached, as was the applicant's part, via the original entrance and stairs. The two upper floors, apparently two large bedrooms originally, had been so reconstructed that the court held that they had lost their identity, and for this reason alone it was held that there was no case for apportionment. But both Lush, J., and McCardie, J., proceeded to consider the meaning of s. 12 (9). The former characterised the subsection as unnecessary, because the substantial alterations automatically took the premises out of the Act, but he agreed that a "self-contained flat" meant a complete residence and that Roche, J., had been justified in coming to the conclusion he reached in *Smith* v. *Prime*; the presence or absence of a partition was not decisive. McCardie, J., agreed in general, but did think the question one of mixed fact and law, and emphasised the "or tenements" part of the subsection.

The main difference between the essentials of control under the old Acts and those laid down by the 1939 Act is, of course, that the rateable value test is the only test for the latter. That is to say, any house not decontrolled, continued to be subject to control, and control was extended to any dwelling-house of a rateable value, on 1st and 6th April, 1939, respectively, of not more than £100 in the London area, £75 elsewhere. It seems difficult to imagine how it could be said that any dwelling-house built since the Act was passed can fall within its purview; but it may be pointed out that rating law consistently refers to "hereditaments," not to dwelling-houses (save in connection with special provisions for rating "agricultural buildings") and a house built since 1st September, 1939, must occupy a site constituting the whole or part of a hereditament rated in April of that year. And if it occupies the site of a controlled dwelling-house which has collapsed or been demolished, there is something to be said for the proposition that it is controlled. For s. 12 (9) of the 1920 Act is among the provisions listed in the First Schedule to the 1939 Act which do not apply to houses brought into control by that Act.

Wills and Bequests.

Mr. Thomas Hugh Cobb, solicitor, of Davies Street, W., left £203,397, with net personalty £201,048.

Mr. James Hodgkinson, solicitor, of Birmingham, left £12,537, with net personalty £12,482.

Alderman Alfred Holt, barrister-at-law, of Leamington Spa, left £57,119, with net personalty £53,900.

Sir Miles Walker Mattinson, K.C., of Warwick Bench, Guildford, Surrey, left £388,909, with net personalty £384,933.

To-day and Yesterday.

LEGAL CALENDAR.

May 8.—On the 8th May, 1787, "five journeymen bookbinders received judgment in the Court of King's Bench for a conspiracy against their masters in demanding an abridgement of their hours of labour and leaving their work when refused. Their sentence was two years' imprisonment in Newgate. Twenty-four were concerned in the conspiracy."

May 9.—In May, 1668, a great quarrel was going on between the House of Lords and the House of Commons over the case of *Skinner* v. *The East India Company*. The Commons ordered the plaintiff into the custody of the Serjeant-at-Arms and the Lords arrested Sir Samuel Barnadiston, Governor of the Company, as well as Sir Andrew Rickard, Mr. Rowland Gwynn and Mr. Christopher Borne. Pepys notes the controversy several times, "it being upon a mighty point of the privileges of the subjects of England, in regard to the authority of the House of Lords and their being condemned by them as the Supreme Court, which, we say, ought not to be but by appeal from other courts." On the 9th May he records how the Commons "with great fury came to this vote: 'That whoever should assist in the execution of the judgment of the Lords against the Company should be held betrayers of the liberties of the people of England and of the privileges of that House.' This the Lords had notice of and were mad at it and so continued debating without any design to yield to the Commons." Afterwards the King came in and sent for the Commons, gave his assent to several Bills, expressed his regret at the difference between the Houses and adjourned them till August.

May 10.—Joseph Ady was courteous, pleasant and serene; he was a Quaker. For some twenty years he carried on a singular business. Having access to lists of unclaimed bank balances and dividends and estates with lost heirs, he noted the relevant names and wrote to persons whom he thought might be interested, telling them that if they sent him a guinea they would hear "something to their advantage." On receipt of the fee he would inform his correspondent that his name appeared in a list of unclaimed money and that he ought to investigate the matter. Sometimes this intelligence did prove an "advantage," but generally it led nowhere, and the indignation of those who had parted with money often resulted in prosecutions, all of which fell to the ground. On the 10th May, 1830, Ady appeared before Sir Richard Birnie at Bow Street Police Court. A clerk of his, named Ridgeway, was charged with defrauding a solicitor named Salkeld of a sovereign. After the fee had been handed over to Ridgeway, Mr. Salkeld had received a letter from Ady containing information of the usual sort and, when an intimation that he had no connection with the Salkeld in the list of unclaimed money failed to elicit a refund, the prosecution had been launched against the clerk. Ady attended to support his servant and was charged along with him. He did not attempt to deny the circumstances despite the openly hostile attitude of the magistrate who had himself in the past received letters from him. Ady claimed that he had always given value for the fees received. Another sovereign had been found on Ridgeway, who said he had received it at an address in Suffolk Place. While a police officer went there to investigate, the duel between Ady and the magistrate went on. The return of the constable with the information that the other sovereign came from Mr. Doherty, Solicitor-General for Ireland, brought about the collapse of the case, Ady declaring that it proved his transactions were fair. "I should be a fool to attempt to impose on a Solicitor-General." The charge was dismissed, the magistrate being too much overcome to hold out.

May 11.—On the 11th May, 1733, "a cause was tried in the Common Pleas at Westminster between Mr. Freeman, a plaisterer, plaintiff, and J—— C—— Esq., a Justice of the Peace, defendant, for extorting a shilling from him for a discharge, though there was no warrant granted nor was there a clerk to pretend a demand for the same. It was likewise proved to be his daily practice to take money for binding over, granting and discharging of warrants, which the judge observed was a great abuse and contrary to law. The jury gave a verdict for the plaintiff and one shilling damage and cost of suit."

May 12.—Johan van Oldenbarneveldt was a lawyer whose pure patriotism and high ability were of incalculable service to the United Netherlands in their struggle with Spain and for long he led their councils. But when a truce was made in 1609 the liberated states were torn by internal differences, due particularly to the harsh intolerance of the Calvinists and the ambitions of the Statholder Maurice of Nassau. In the federation the province of Holland held a predominating place and Oldenbarneveldt was its political personification. In 1618 a crisis arose in which he represented the principle of provincial sovereignty and Maurice the principle of national sovereignty. The Statholder who commanded the troops triumphed without a blow and brought his venerable opponent to trial before a packed and illegal court which denied him advocates, documents, pen and paper. He was condemned to death on the 12th May, 1619, and beheaded.

May 13.—On the 13th May, 1940, Sir John Simon became Lord Chancellor. A week later the dignity of a viscounty was conferred on him. Thus a great lawyer attained a place which many years before might have been his as a fitting climax to the services he rendered after he became Solicitor-General in 1910 and Attorney-General in 1913. It is well that after his work as Home Secretary, Foreign Secretary and Chancellor of the Exchequer he should return to the rewards of his first love, the law.

May 14.—On the 14th May, 1914, Sir Arthur Moseley Channell, lately retired from the Bench after seventeen years' service as a judge, was sworn of the Privy Council. During the war he rendered distinguished service as a member of the Judicial Committee in Prize Court appeals.

RARE TROUBLE.

The recent fining of a High Court judge at Reading for selling watered milk to the Milk Marketing Board (the fault was that of a boy trainee employed on his farm) only emphasises the astonishing record of judicial impeccability which shows so few instances of British judges being called on to answer for their private behaviour. There was the occasion when Mr. Justice North, fishing a river in Scotland, became involved in an altercation with a gamekeeper and threw him into the water; police court proceedings followed but were amicably settled. An incident far more serious was the trial of Mr. Justice Johnson, of the Irish Common Pleas, in the Court of King's Bench at Westminster for a libel on Lord Redesdale, Lord Chancellor of Ireland, printed in Cobbett's "Political Register" under the signature "Juverna." A bill of indictment having been found by the grand jury at Westminster, Lord Ellenborough, C.J., signed a warrant for the apprehension of the judge and he was accordingly arrested at his house at Miltown near Dublin. After *habeas corpus* proceedings in the Irish courts had failed, he was duly tried in November, 1805. The prosecution was conducted by Spencer Perceval, the Attorney-General, brother-in-law of Lord Redesdale. Johnson was found guilty and it was thought for a while that he might be sent to prison, but the Government changed opportunely, the Whigs came into power, the new Attorney-General entered a *nolle prosequi* in Trinity Term, 1806, and the judge retired from the bench with a pension. An odd feature of the case is that whereas the conviction turned on the identification of the original manuscripts as being in Johnson's handwriting, there is the authority of Lord Cloncurry for believing that they were in fact in the handwriting of his daughter.

War Legislation.

STATUTORY RULES AND ORDERS, 1944.

E.P. 495. **Factories** (Testing of Aircraft Engines, Carburettors and Other Accessories) Order, April 25.

E.P. 496. **Food** (Points Rationing) Order, April 27, amending the Food (Points Rationing) (No. 3) Order, 1943.

E.P. 473. Food (Transport) Order, April 20, amending the Food (Sector Scheme) Order, 1943.

E.P. 479. **Fur Apparel** (No. 7) Directions, April 25, under the Apparel and Textiles Order, 1942.

E.P. 432. **Limitation of Supplies** (Miscellaneous) Returns Order, April 26, *re* Information and Returns.

E.P. 497. **Road Transport of Goods** Order, April 26.

No. 485/L.19. **Supreme Court, England.** Procedure. The Matrimonial Causes (Bury St. Edmunds) Rules, April 24.

No. 491/L.20. Supreme Court, England. Procedure. The Non-Contentious Probate Rules, April 25.

No. 503/L.21. Supreme Court, England. The Supreme Court Funds (No. 1) Rules, April 27.

No. 453. **War Pensions** (Mercantile Marine) Scheme, April 18.

E.P. 510/S.28. **War Zone Courts** (Constitution) (Scotland) Order, April 20.

No. 504. **Workmen's Compensation,** Byssinosis (Benefit) Amendment Scheme, April 28.

BOARD OF TRADE.

Companies Act, 1929. Company Law Amendment Committee (Chairman Cohen, J.). Minutes of Evidence, 12th Day, 11th Feb., 1944. 13th Day, 25th Feb., 1944.

According to a statement in *The Times*, while suggesting to the East India Association recently a number of reforms of the Indian judicial system, Sir John Beaumont, late Chief Justice of Bombay, said that Indians admired our legal system and worked it in the right spirit. He had been told on many occasions by Indians of every community and every shade of political thought that the one British institution which Indians really admired was our system of administering justice, and that that system formed the strongest bond between the two countries. While he would not make the Federal Court the supreme Court of Appeal in India at present, he would transfer to it enough special and useful work to occupy the time of the judges. The retiring age for High Court judges in India should be raised from sixty to sixty-five—the limit statutorily applied to judges of the Federal Court.

Our County Court Letter.

Corporal Punishment in Schools.

In *Seldon* v. *Airey*, at Wimborne County Court, the claim was for £20, as damages for assault. The plaintiff was a boy, aged thirteen, who was a pupil at Queen Elizabeth's Grammar School, Wimborne, of which the defendant was head master. The plaintiff's case was that he was given six strokes on the body with a cane in a manner and to an extent which was excessive and with unnecessary force, with the result that he suffered great pain and damage. The defendant's case was that the boy, in disobedience of the rules, had retained a parcel of "tuck," instead of handing it over to the matron. Other breaches of discipline had occurred, and remonstrances had proved ineffective. Any corporal punishment administered by the defendant as schoolmaster was justified and lawful. It was not excessive, but was reasonable and moderate, and such as was usual in the school. On viewing the stick, His Honour Judge Cave, K.C., held that it should not have been used to beat a boy. A fives bat would have been better, but a more suitable punishment would have been to learn a piece of prose or verse. His Honour was in favour of corporal punishment, but disapproved of its improper use. The rule about "tuck" seemed absurd, and the defendant had apparently lost his temper. The thrashing was too severe and excessive, and should not have been administered for a breach of the rule in question. Judgment was given for the plaintiff for £20, with costs.

Occupation of House by Billetees.

In *Brooker* v. *Brackenridge*, at Nottingham County Court, the claim was for possession of 41, Dryden Street, Nottingham. The plaintiff's case was that she bought the house in July, 1943, when it was already let to the defendant at a rent of 22s. 6d. a week. The defendant had since ceased to reside in the house, which was now occupied by soldiers, who were billeted there. The defendant was thus using the house to make money, whereas the plaintiff required it for her own occupation. The defendant's case was that the billeting officer had called, and said that the house must be used for soldiers. In consequence the house had been occupied by varying numbers of soldiers ever since. His Honour Judge Tucker gave judgment for the defendant, with costs.

Bailment of Rings.

In *Gianelli and Wife* v. *Breen*, at Nottingham County Court, the claim was for the return of two solitaire diamond rings or £40, their value, and also for the return of a zircon stone or £10, its value. The counter-claim was for the return of four watches and two clocks or their value, £13 5s. The plaintiffs' case was that the two diamond rings had been given to the defendant to sell for £40. The defendant had neither returned the rings nor paid any money for them. The zircon stone had been handed over to the defendant to be mounted by a third party. The defendant's case was that he took the rings to London to sell, but had been unsuccessful. The rings subsequently disappeared from the premises used by him as a watchmaker. His Honour Judge Tucker gave judgment for the plaintiffs for the return of the rings or payment of £38, and costs. On the claim for the stone, judgment was given for the defendant. The counter-claim was dismissed, with costs.

Repayment of Loan.

In *Lindsay* v. *Simms*, at Walsall County Court, the claim was for £95, money lent, with £3 11s. 3d. interest. The plaintiff was a widow, aged seventy-two, and the defendant was her married daughter. The plaintiff's case was that in 1933, when she was about to undergo an operation, she gave to each of her seven children, and to an adopted child, the sum of £20. In May, 1942, the sum of £100 was returned to her by one of her sons, when she permitted him to retain £37 to defray her funeral expenses. Knowing that the defendant had a post-office savings bank account, the plaintiff subsequently handed to the defendant sums of £50, £30 and £20 to put in the bank. An item of £2 and one of £3 were subsequently withdrawn, but the defendant eventually refused to withdraw any more, saying that the money was in her (the defendant's) name, and neither the plaintiff nor anybody else could obtain it. The defendant had admitted to the plaintiff's solicitors that the money belonged to the plaintiff, but the defendant had, nevertheless, declined to sign a withdrawal form. The defendant's case was that the money was a gift to her. His Honour Judge Caporn observed that it was improbable that the plaintiff would give £100 to the defendant, and nothing to the plaintiff's other children. The plaintiff's evidence was accepted, and judgment was accordingly given in her favour, with costs.

Decisions under the Workmen's Compensation Acts.

Silicosis and Fire Clay Miners.

In *Smith* v. *Mobberley & Perry, Ltd.*, at Stourbridge County Court, the applicant's case was that her husband had died in February, 1943, from silicosis contracted while working in the defendants' fire clay mines. The defendants' case was that their fire clay mines had been worked since 1780, and silicosis had never been previously known among their workpeople. By consent, His Honour Judge Roope Reeve, K.C., made an award of £350, with costs.

In another case at the same court, against the same respondents, the applicant was an old age pensioner, who had been certified as suffering from silicosis in May, 1941. The respondents' case was that these were the first cases of this kind in 163 years. The fire clay industry was not scheduled under the Silicosis Scheme. By consent, an award was made of £500, with costs.

Points in Practice.

Questions from solicitors who are REGISTERED ANNUAL SUBSCRIBERS are answered, without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the subscriber, and a stamped addressed envelope.

Administrator—Assent.

Q. The preconceived notions of ourselves and some of our colleagues have been somewhat shaken by the form of Forms and Precedents, 3rd ed., p. 3, headed "Conveyance of Freeholds by Executors of Administrator who also Sole Statutory Beneficiary but executed no Assent in his own Favour." As will be seen, the facts can be summarised as follows: A dies intestate leaving no spouse surviving, but B is sole issue as beneficiary. B took a grant of administration and died without executing an assent in his own favour. C obtained the grant of probate of B's will and the conveyance is on the basis of a sale by C as personal representative of B. The point, of course, is should B have obtained a grant of administration *de bonis non* to A's estate? We suggest that if the legal position be that as set out in the notes on this precedent, it is not generally known in the profession. It occurs to us that if the legal position is correctly stated the purchaser should require a statutory declaration of the facts, and presumably under the standard form of contract, the purchaser would have to pay the costs of such a declaration.

A. Prior to the Ad. of Estates Act, 1925, there was no such thing as an assent by an administrator. Under the Land Transfer Act, 1897, the administrator had to convey to the heir. If, however, a sole administrator was the heir and there was no question of dower, he could at once convey as beneficial owner. The present writer has always held the view that if, under the existing law a sole administrator is also sole beneficiary, and if a sufficient time has elapsed for it to be assumed that the administrator had retained the property for his own use, nothing in the nature of an assent is required and that the administrator's personal representative could convey as such, without taking out a grant *de bonis non* to the original intestate. In *Re Hodge, Hodge* v. *Griffiths* [1940] Ch. 260, Farwell, J., held that a devisee who was sole executor could become beneficially entitled to the property by implied assent without executing a written assent, though if he sought to sell as beneficial owner, the purchaser would be entitled to have an assent executed. It must have followed that if the devisee had died intestate, his administrator(s) could have conveyed as such. The writer considers that in the absence of a special condition, a purchaser would be entitled to call on C to prove that B was solely entitled to A's estate and facts suggesting an implied assent. Whether the vendor could be compelled to pay the costs of a statutory declaration is certainly doubtful. As to the somewhat, but not quite, analogous case of a devisee-executor, see "A Conveyancer's Diary" (1942), 86 Sol. J. 381.

Will—Construction—Words "should she re-marry."—Meaning of.

Q. A testator, in a holograph will, gave four pecuniary legacies, each one being worded as follows: "I give to my brother the sum of £ ; should he predecease me I direct my executors to include this bequest in my residue." (The amounts given to the four brothers differed.) Then he made the following bequest: "I give to my sister-in-law R.K. the sum of £100; should she re-marry or predecease me I direct my trustees to add this bequest to my residue." The testator gave the residue of his estate to his brother Z. At the time of the testator's death recently R.K. was a widow and she is still a widow. Please give your opinion:—

(1) Whether R.K. is entitled to be paid the capital sum, or whether it should be held upon trust for her as long as she remains a widow?

(2) If the sum is to be held in trust for R.K. and she remains a widow until her death, who will then be entitled to it?

Having regard to the four previous clauses in the will, each of which contains the sentence "should she predecease me I direct my executors to include this bequest in my residue," it is suggested that the words "should she re-marry" in the clause under consideration means "should she re-marry in my lifetime" and that R.K. is entitled to the capital.

A. Taking into consideration the facts (1) that the gift to R.K. follows the form of the gifts to the four brothers, and (2) that no provision is made for the case of her remarriage after the death of the testator, we express the opinion that on the construction of the will as a whole the words "should she

re-marry" refer to remarriage in the lifetime of the testator. The result is that she takes absolutely. This seems to us a case where finality could only be reached by an application to the court for construction, and we therefore suggest that the above construction should be agreed by all possibly interested to protect the personal representatives.

House purchased by Father for Son.

Q. A father is proposing to purchase a house out of his own money with a view to making an immediate gift of it to his son (who is not an infant). It seems that there will have to be a conveyance to the father followed by a deed of gift to the son, thus involving double stamp duty. Could this be avoided by making the son a sub-purchaser in the conveyance for a nominal consideration? If not, could the father, before the completion of the purchase, hand the son the money required to complete?

A. The conveyance could recite contract of sale to the father and that he had requested that the property be conveyed to the son. No extra duty would be chargeable and the presumption would be that it was an advancement. Perhaps the better way is for the father to give the son the money.

High Court Judgment.

Q. It appears from R.S.C., Ord. 42, r. 23, that you cannot extend a judgment after twelve years from its date unless within the twelve years there has been some acknowledgment or payment on account. Do you agree with this view, please, or does some step such as the issue of a judgment summons keep the judgment alive?

A. The mere issue of a judgment summons would not keep the judgment alive. If, however, the defendant were subpœnaed to appear on the hearing, an acknowledgment could doubtless be obtained from him which would prevent the Limitation Act, 1939, from running against the creditor.

Joint Purchase of Matrimonial Home.

Q. A and B are husband and wife. Seven years ago A contributed to purchase a house as the matrimonial home. A part of the money was then found on mortgage. The balance was found by A and B out of their own moneys in equal shares. The property was conveyed to A who also signed the mortgage and has since paid interest and instalments of principal thereon out of his own money. A, however, at the time of the original transaction executed a declaration of trust reciting that the balance of the purchase-money had been found jointly and declaring that he held the property in trust for himself and B in fee simple "as joint tenants in equal shares." A and B have now fallen out and B has left the matrimonial home. The property has appreciated in value. A is only willing to repay to B the precise sum which she contributed on the original transaction. The property would, of course, fetch a substantially higher price if sold with vacant possession. What are B's rights and how can she enforce them?

A. The wife should apply to the county court under the Married Women's Property Act, 1882, s. 17, for an order for the sale of the house and payment of half the proceeds to her.

Rules and Orders.

S.R. & O., 1944, No. 503/L. 21.

SUPREME COURT, ENGLAND—FUNDS.

THE SUPREME COURT FUNDS (No. 1) RULES, 1944. DATED APRIL 27, 1944.

I, John Viscount Simon, Lord High Chancellor of Great Britain, with the concurrence of the Lords Commissioners of His Majesty's Treasury, and in pursuance of the powers contained in section 146 of the Supreme Court of Judicature (Consolidation) Act, 1925,* and every other power enabling me in this behalf, do hereby make the following Rules:—

1. The following paragraph shall be added to Rule 70 of the Supreme Court Funds Rules, 1927†:—

"(6) When a security standing to the credit of an account as a deposit pursuant to any of the Acts referred to in Rule 44 (3) is requisitioned by the Treasury or is redeemed, the cash received in respect of that security may be invested by the Accountant-General, without an Order, in any current issue of a Government security upon a request being made in writing to the Accountant-General by the Company, Society, Association, or other person in whose name the deposit has been made.

When a security standing to the credit of any other account is requisitioned by the Treasury or is redeemed, the cash received in respect of that security may be invested by the Accountant-General, without an Order, in any current issue of a Government security upon a request being made in writing to the Accountant-General by the Solicitor having the conduct of the proceedings together with his certificate in writing that he is authorised by all persons interested in the Fund to make the request."

2. These Rules may be cited as the Supreme Court Funds (No. 1) Rules, 1944, and shall come into operation on the first day of May, 1944.

Dated the 27th day of April, 1944.

Simon, C.

W. M. Adamson | Lords Commissioners of
L. R. Pym | His Majesty's Treasury.

* 15 & 16 Geo. 5, c. 49. † S.R. & O., 1927 (No. 1184), p. 1638.

Notes of Cases.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

Cordon-Cuenca *v.* **R.**

Viscount Simon, L.C., Lord Atkin, Lord Porter, Lord Clauson and Sir George Rankin. 11th February, 1944.

Gibraltar—Jurisdiction—Appellant sentenced to death under defence regulation—Validity of proceedings—Criminal matter—Leave to appeal—Trial of Special Offences Ordinance, 1943 (*Gibraltar*) (*No.* 19 *of* 1943), *para.* 2—*Emergency Powers* (*Defence*) *Act*, 1939 (2 & 3 *Geo.* 6, *c.* 62), *s.* 4—*Emergency Powers* (*Defence*) (*No.* 2) *Act*, 1940 (3 & 4 *Geo.* 6, *c.* 45), *s.* 1.

The appellant was convicted on the 25th August, 1943, before the Chief Justice sitting as a special court without a jury under para. 2 of the Trial of Special Offences Ordinance (No. 19 of 1943) (Gibraltar) for an offence under reg. 23 of the Gibraltar Defence Regulations, 1939, and was sentenced to death.

Ordinance No. 19 of 1943 was made by the Governor under the authority of letters patent empowering him to make laws for the peace, order and good government of Gibraltar. The power to make the Gibraltar Defence Regulations, 1939, was derived from the United Kingdom statute, the Emergency Powers (Defence) Act, 1939, which by s. 4 authorised His Majesty by Order in Council to direct that the provisions of the Act should extend to any colony. The Emergency Powers (Colonial Defence) Order, 1939, had extended these powers to Gibraltar. The United Kingdom Emergency Powers (Defence) (No. 2) Act, 1940, by s. 1 inserted in the Act of 1939 power to make regulations providing for the trial by special courts of offenders "so however, that provision shall be made for such proceedings being reviewed by not less than three persons who held or have held high judicial office, in all cases in which sentence of death is passed." After sentence the Chief Justice had entertained an application for leave to appeal to the Privy Council and had purported to grant such leave being under the impression that the Order in Council regulating appeals to His Majesty in Council from Gibraltar applied to a criminal case. The appellant appealed against his sentence on the ground that the sentence pronounced by the Chief Justice was not subject to review in accordance with the requirements of the Act of 1940 and contended that the special court was without jurisdiction and its proceedings invalid.

VISCOUNT SIMON, L.C., said that the appellant's argument, as their lordships understood it, was that the offence in question being constituted by the regulations made under the Act of 1939, the court to try such offence must be appointed under the additional powers inserted in that Act by the Act of 1940. The combined provisions of those Acts it was said alone gave power to create special courts to deal with these offences. The conclusive answer to that contention was that the special court which tried the appellant was created by the Trial of Special Offences Ordinance of 1943 and not under the Emergency Powers Act or the orders made thereunder. Nor was it necessary for it to be created under those Acts or regulations. The regulations defined the offences, but did not establish the court, and the court existed and exercised its jurisdiction quite apart from the regulations. The Act of 1940 empowered the appointment of special courts to try offences created by defence regulations, but it did not confine the trial of those offences to such courts, nor compel their creation for that purpose. The power was permissive and not obligatory, and the validity of the regulations and of the trial was not dependent upon the appointment of the special courts whose creation was permitted by the Act of 1940. The offence could be tried by any court exercising jurisdiction either as a result of the powers conferred by the Act or under any other lawful authority. The objection to the jurisdiction of the court could not be sustained and the conviction and sentence must stand. The Appeal Order in Council Gibraltar, 1909, was in the same terms as that considered in *Chung Chuck* v. *R.* [1930] A.C. 244, when it was held that the order did not authorise such leave in criminal cases. If such leave were given it must be by His Majesty in Council. To avoid frustration of the proceedings in this case their lordships had advised that special leave to appeal should be given.

COUNSEL: *L. U. Borenius*; *The Attorney-General* (Sir Donald Somervell, K.C.); *The Solicitor-General* (Sir David Maxwell Fyfe, K.C.) and *Kenelm Preedy*.

SOLICITORS: *Wontner & Sons*; *Burchells*.

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

CHANCERY DIVISION.

In re **McElligott**; **Grant** *v.* **McElligott.**

Vaisey, J. 16th February, 1944.

Will—Construction—Bequest of personalty "to A and her heirs for ever"—Whether absolute gift—Law of Property Act, 1925 (15 *Geo.* 5, *c.* 20), *s.* 131.

Adjourned summons.

The testator, who died in 1941, by his will dated the 3rd June, 1936, provided as follows: "My just debts and funeral expenses having been paid, I direct that the balance of my estate and effects be given to my dear wife A and her heirs for her and their use and benefit absolutely and for ever." The testator's estate consisted of savings certificates, bonds and cash. He left no real estate. This summons raised the question whether the testator's widow took an absolute or only a life interest in the personalty. The defendants to the summons were the testator's widow and his son, his only child.

VAISEY, J., said that the contention of the son was that the widow took a life interest only with remainder to himself or other the persons who at her death would have been her heir at law under the law in force before the 1st January, 1926. That argument was based on s. 131 of the Law of Property Act, 1925, which abolished the rule in *Shelley's Case* (1579),

1 Co. Rep. 93*b*. In his judgment no interest was by this will "expressed to be given" to the heir, nor would the rule in *Shelley's Case* ever at any time or in any circumstances have applied to this gift. Moreover, as there could not be a fee simple in personal estate, and as there was no question here of any entailed interest, the words could not have operated to bring the section into effect. The superadded words "for her and their use and benefit" did not throw any further light on the matter. Apart from that, he thought there was no room for doubting that a limitation of personalty to one and his heirs operated to vest in the person named an absolute interest, the words being for that purpose adequate but inapt (see *Powell v. Boggis*, 35 B. 535; *In re Russell*, 50 L.T. 2535). He would therefore declare that there was an absolute gift to the widow.

COUNSEL: *Michael Albery; Hubert A. Rose; J. A. Reid.*

SOLICITORS: *Andrew, Purves, Sutton & Creery* for all parties.

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

In re Ferrier, *ex parte* the Trustee *v.* Donald.

Morton, J. 22nd March, 1944.

Sale of goods—"On sale for cash or return" within one week—Goods seized under writ of fi. fa. within week—Purchaser adjudicated bankrupt—Sheriff returns goods to vendor—Trustee in bankruptcy claims goods—Whether property in purchaser—Sale of Goods Act, 1893 (56 & 57 *Vict. c.* 71), *s.* 18, *r.* 4 (*b*).

Motion.

The debtor carried on the business of an antique dealer. On the 11th, 12th and 13th November, 1941, D delivered to the debtor seven articles of furniture "on sale for cash or return," the debtor being given one week for approval. Within the week, on the 15th November, execution was levied on the debtor's goods including the seven articles. D claimed the articles and the sheriff interpleaded. On the 16th December, 1941, the master ordered the sheriff to withdraw from possession of those articles and D recovered possession of them. The debtor was adjudicated bankrupt on the 24th April, 1942, and by this motion her trustee in bankruptcy claimed a declaration that the property in these seven articles of furniture had vested and remained vested in the debtor. The Sale of Goods Act, 1893, s. 18, provides: "Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer . . . Rule 4—When goods are delivered to the buyer on approval or 'on sale or return' or other similar terms the property therein passes to the buyer: . . . (*b*) If he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time."

MORTON, J., said that he assumed there was no distinction between the words "sale or return" and the words "on sale for cash or return." It was contended for the trustee in bankruptcy that as the goods were delivered on sale or return and the time fixed for their return had expired on the 20th November and the debtor had retained the goods without giving notice of rejection, the property in the goods had then passed to the debtor, and there was nothing to show a different intention within s. 18. He had also been referred to s. 26 of the Act of 1893, which provided that: "A writ of *fieri facias* or other writ of execution against goods shall bind the property in the goods of the execution debtor as from the time when the writ is delivered to the sheriff to be executed." The answer to that argument was that, in his view, the debtor had not retained the goods until the 20th November within the meaning of s. 18, r. 4. She had retained them until the 15th November, when the goods were seised under the execution. From that time the goods were retained by the sheriff until, pursuant to the order of the master, he withdrew from possession of them. The result was that the goods having been sent on sale or return the event referred to in r. 4 of s. 18 never had happened and the goods never became the property of the debtor, and D was entitled to the return of these articles of furniture. Motion dismissed.

COUNSEL: *C. Gallop; G. D. Johnston.*

SOLICITORS: *Lucien Fior; Frere, Cholmeley & Co.*

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

In re Sumner (a Solicitor), and *In re* Taxation of Costs.

Morton, J. 28th March, 1944.

Costs—Taxation—Non-contentious matter—Application to transfer taxation to Manchester—Jurisdiction—R.S.C., Ord. 35, *rr.* 6A, 17.

Procedure summons.

The respondents had obtained an order under the Solicitors Act, 1932, for the taxation of the bill of costs of the applicant, their solicitor. No taxation had taken place, and the applicant asked that all proceedings for the taxation of his bill of costs might be removed from London and transferred either to the Manchester or the Liverpool District Registry under R.S.C., Ord. 35, rr. 6A, 17. He filed an affidavit stating his reasons why he considered it would be more convenient for all parties that the taxation should be transferred to the Manchester District Registry. The respondents opposed the application.

MORTON, J., said that it was clear from the reasoning in *In re R. W. Stead, a Solicitor* [1910] 2 K.B. 713, that the application would not succeed unless it could be brought within R.S.C., Ord. 35, r. 6A. That rule provided that in certain circumstances, which were defined in the rule, the District Registrar might act as a Taxing Master of the Supreme Court. Looking at the rule, it was plain that the applicant could not bring himself within it. The applicant, however, submitted that jurisdiction was conferred by r. 17 of Ord. 35, and that an order could be made for the transfer of this matter to the District Registry of Manchester, and thereupon the District Registrar would be in a position to tax the costs in question. He did not take that view. Assuming the case came within r. 17 and it could be transferred and there was good reason for transferring it, there still was no ground on which the District Registrar was empowered to act as a taxing master for the purposes of this bill. The order for transfer could not confer on the District Registrar the jurisdiction which it was desired he should exercise. Unless the case came within Ord. 35, r. 6A (which it did not), the Registrar could not tax the bill. The summons must be dismissed.

COUNSEL: *J. F. Bowyer; C. L. Fawell.*

SOLICITORS: *Field, Roscoe & Co.*, for *Arkle & Darbishire*, Liverpool; *Williamson, Hill & Co.*, for *H. Collinson*, Halifax.

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

In re Sebright's Will Trusts; Public Trustee *v.* Sebright.

Vaisey, J. 30th March, 1944.

Settlement—Jointure—Income tax—Rate deductible in respect of arrears—Appointment "free from deductions"—Whether power authorises appointment free from death duties—Income Tax Act, 1918 (8 & 9 *Geo.* 5, *c.* 40), *All Schedules Rules, r.* 19—*Finance Act*, 1927 (17 & 18 *Geo.* 5, *c.* 10), *s.* 39 (1).

Adjourned summons.

The testator, who died in 1897, by his will settled certain real estate in strict settlement, the defendant G being the present tenant for life in possession. The testator by his will authorised each tenant for life of the property to appoint to any wife he might marry by way of jointure not exceeding in the whole the yearly sum of £600, provided that the premises should not be at any one time subject to the payment of more than £600 a year. T, a tenant for life who died in 1933, by his will exercised his power, and appointed a yearly rent-charge of £600 to his wife O, to be paid "without any deduction." A second jointure of £600 had been appointed by the next tenant for life in similar terms to A. This jointure was in suspense during the continuance of the first. The present tenant for life had covenanted to pay to A while she was not entitled to receive her jointure, an annuity of £600 to be charged on his life estate. The payments of the jointure and of the covenanted annuity had fallen into arrear. Income of the settled property was now available to discharge those arrears. Income tax at 10s. in the £ had been paid on this income. The first question raised by the summons was as to the rate of tax to be deducted from the jointure and annuity in discharging the arrears. The second question was whether the appointments had exonerated the two jointures from liability to bear any proportion of the death duties payable in respect of the settled property.

VAISEY, J., said that it was argued for the tenant for life that the proper rate of tax to be deducted was the rate which had in fact been paid in respect of the sum out of which the discharge was to be effected, namely 10s. in the £. The jointuress said that the tax to be deducted from the amount representing each half-yearly payment should be the standard rate for the financial year in which that payment first became due. In other words, the pre-war arrears ought to suffer deduction at the pre-war rates. The solution of this question depended upon the proper interpretation of r. 19 of the All Schedules Rules to the Income Tax Act, 1918, as amended by s. 39 (1) of the Finance Act, 1927. The cases did not seem of much assistance. The view which he had formed appeared to him to be more reasonable than any other, and he would declare that income tax should be deducted at the standard rate for the year in which the arrears became immediately payable. The other question was whether the jointures were subject to or free from estate and succession duty. The direction in each deed of appointment was for payment "without any deduction" which would, as a matter of construction, exonerate the jointures from both these duties. There was no doubt as to the intention of the appointors; the question was whether they had exceeded the power and gone beyond the permitted limit of £600. The suggestion that they had done so was supported by some authorities of great weight (*Hervey* v. *Hervey* (1739), 1 Atk. 561, and *Londonderry* (*Lady*) v. *Wayne* (1763), Amb. 424). He was however faced with a recent decision of Bennett, J., namely, *In re Smith-Bosanquet* [1940] Ch. 954, which seemed to him to cover the present case and he felt bound to follow it, at any rate as regards estate duty. As regards the succession duty on the whole, he did not think he could make any distinction, and he would declare that the jointures had been effectually exonerated from both duties.

COUNSEL: *G. D. Johnston; Wynn Parry*, K.C., and *Donald Cohen; Wilfrid Hunt; Sir Norman Touche; A. C. Nesbitt; A. J. Belsham.*

SOLICITORS: *Fladgate & Co.; J. N. Nabarro & Sons; Burton, Yeates and Hart; Rooper & Whately.*

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

KING'S BENCH DIVISION:

Austin *v.* Greengrass.

Viscount Caldecote, L.C.J., Macnaghten and Cassels, JJ.
16th March, 1944.

Landlord and tenant—Rent restrictions—Obligation to state standard rent in rent-book—Obligation to apply for apportionment when standard rent not known—Rent and Mortgage Interest Restrictions (Amendment) Act, 1933 (23 *and* 24 *Geo.* 5, *c.* 32), *s.* 10 (3)—*Rent Restrictions Regulations*, 1940 (*S.R. & O., No.* 238), *Sched. II.*

Appeal by way of case stated from a decision of the Metropolitan Police Magistrate, sitting at Clerkenwell, dismissing an information under the

Rent Restrictions Acts, 1920 to 1939, and the Rent Restrictions Regulations, 1940, against Constance Cecilia Greengrass for using a rent-book, as landlord, not conforming with the regulations, in that it did not contain a notice in the appropriate form set out in Sched. II of the regulations. The premises in question consisted of the ground floor of a house and were let on a weekly tenancy by the respondent to a Mr. Currie, at 17s. 6d. a week, the landlord paying the rates. The Rent Restrictions Acts, 1920 to 1939, applied to the premises otherwise than by virtue of s. 3 of the 1939 Act. The rent-book contained the statement: "The standard rent of the whole house, £78 per annum, the tenant paying rates." The landlord did not know what the standard rent of the ground floor was, and there had been no application for determination thereof either by the landlord or the tenant. The magistrate held that the premises had no standard rent until an application under s. 11 of the Rent and Mortgage Interest Restrictions Act, 1923, had been made and determined and, if it was relevant to decide on whom lay the obligation to ascertain the standard rent, it was for the party complaining of the rent charged. He further held that as the landlord did not know what the standard rent was, the Acts and regulations did not apply.

MACNAGHTEN, J., delivered the judgment of the court, and said that the ground floor had a standard rent from the time when it was let as a separate dwelling-house. There was an obligation on the landlord to state the standard rent in the rent-book. He could do that by getting the county court judge to make an apportionment. It was said to be a hardship on a landlord that he could not apply to a county court judge until the part of the dwelling-house had been actually let. But on letting the premises he could state in the rent-book that the standard rent of the whole house was so much and that he was applying to the county court judge for an apportionment. The case must go back to the magistrates with directions accordingly.

COUNSEL: *H. G. Garland; A. A. Pereira.*

SOLICITORS: *W. T. Ricketts & Son; W. A. Jennings.*

[Reported by MAURICE SHARE, Esq., Barrister-at-Law.]

Parliamentary News.

ROYAL ASSENT.

The following Bills received the Royal Assent on 10th May:—

National Loans.

City of London (Various Powers).

HOUSE OF LORDS.

Connah's Quay Gas Bill [H.C.].

London and North Eastern Railway Bill [H.C.].
Read Second Time. [3rd May.

Pensions (Increase) Bill [H.C.].
Read First Time. [9th May.

Police and Firemen (War Service) Bill [H.C.].
Read First Time. [9th May.

HOUSE OF COMMONS.

Edinburgh Merchant Company Endowments (Amendment) Order. Confirmation Bill [H.C.].
Read Third Time. [5th May.

Education Bill [H.C.].
In Committee. [9th May.

Food and Drugs (Milk and Dairies) Bill [H.C.].
Read First Time. [3rd May.

Rural Water Supplies and Sewerage Bill [H.C.].
Read First Time. [4th May.

QUESTIONS TO MINISTERS.

WAR TENANCIES.

Commander LOCKER-LAMPSON asked the Attorney-General if he has considered the decision in the case of *Lace* v. *Chantler* (1944), 1 All E.R., p. 305 [88 SOL. J. 135], and the resulting hardship on tenants who entered into agreements not knowing that a tenancy for the duration of the war was void for uncertainty of term; and whether he will take steps to alter the law in this respect.

THE SOLICITOR-GENERAL FOR SCOTLAND (Sir David King Murray): I have been asked to reply. The case to which my hon. friend refers has been brought to the attention of my noble friend, the Lord Chancellor, and my right hon. and learned friend the Attorney-General. The question whether legislation is desirable is already under consideration. [4th May.

NATIONALITY OF MARRIED WOMEN.

Sir HERBERT WILLIAMS asked the Attorney-General whether, having regard to the plight of British women who lose their domicile by marrying men whose domicile is outside the United Kingdom when they are subsequently deserted by their husbands, he will consider the introduction of a Bill on the lines of the Divorce Jurisdiction (Overseas Domicile) Bill, introduced in 1927 by the honourable Member for Croydon, South.

THE SOLICITOR-GENERAL FOR SCOTLAND: As I think my hon. friend is aware, the solution which he suggests involves legislation in both the countries concerned. My noble friend, the Lord Chancellor, is already in consultation with the appropriate authorities with a view to considering the possibility of reciprocal legislation with the Dominion Governments on the lines of the Matrimonial Causes (Dominions Troops) Act, 1919.

Sir HERBERT WILLIAMS: As we have complete power, by our own legislation, to determine the domicile of a person who marries somebody not domiciled in this country, surely we can do this without the necessity of reciprocal legislation?

THE SOLICITOR-GENERAL FOR SCOTLAND: I will convey the remarks of my hon. friend to my right hon. and learned friend. [4th May.

Notes and News.

Honours and Appointments.

The King has approved the appointment of Mr. HERBERT EDMUND DAVIES, K.C., as Recorder of Swansea, and of Mr. HILDRETH GLYN-JONES, K.C., as Recorder of Merthyr Tydfil.

Notes.

Lord Romer, who recently resigned his office of Lord of Appeal in Ordinary because of ill health, has been granted an annuity of £3,750 for life. He is seventy-eight years of age.

A portrait of Lord Hemingford, the former Deputy Speaker of the House of Commons, by Mr. George Harcourt, R.A., which is in this year's Royal Academy Exhibition, is to be presented to him by his former constituents at Watford.

At the monthly meeting of the directors of the Solicitors' Benevolent Association, held at The Law Society, Chancery Lane, W.C.2, on the 3rd May, 1944, grants amounting to £2,188 2s. were made to forty-one beneficiaries.

WAR DAMAGED AND DESTROYED HOUSES.

A new Direction has been issued by the Treasury to the War Damage Commission to make clear the meaning of the Direction published in October last which empowered the Commission to pay for the repair or rebuilding of war damaged houses—however extensive the damage—which were built since 31st March, 1914, or were built before that date but were, at the time of damage, structurally sound and in the opinion of the Commission reasonably equal in design, layout and amenities to a house of similar type built after that date.

The new Direction states that the word "house" does not include public-houses, or buildings used for carrying on the business of a hotel, boarding-house or similar establishment; converted railway carriages, tramcars and similar structures; or any building which in the opinion of the Commission was so constructed as not to be suitable for use as a permanent building, or was wholly or mainly constructed of materials unsuitable for use in the construction of permanent buildings.

The new Direction also makes it clear that a house which has been temporarily diverted by war circumstances to other uses (for example, has been requisitioned for use as a store) is to have the benefit of the earlier Direction.

The Treasury Direction is as follows:—

The following Direction under s. 20 (1) of the War Damage Act, 1943, has been issued by the Treasury:—

1. For the purpose of Treasury Direction No. 8, the word "house" does not include:—

(i) any building which in the opinion of the Commission was primarily used for the sale of intoxicating liquor for consumption on the premises or for carrying on the business of an hotel, boarding-house or similar establishment;

(ii) any building constructed in whole or in part of a converted railway carriage, tramcar or similar article;

(iii) any building which in the opinion of the Commission was so constructed as not to be suitable for use as a permanent building, or was wholly or mainly constructed of materials unsuitable for use in the construction of permanent buildings.

2. Where the normal use of a building or part of a building has been temporarily diverted by reason of circumstances which in the opinion of the Commission arise from war, the building shall be deemed for the purposes of Treasury Direction No. 8 and of paragraph 1 of this Direction to have been used as it was normally used.

Court Papers.

EASTER SITTINGS, 1944.

COURT OF APPEAL AND HIGH COURT OF JUSTICE—CHANCERY DIVISION.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.			EMERGENCY ROTA.	APPEAL COURT I.	Mr. Justice EVERSHED
Monday	May	15	Mr. Blaker	Mr. Hay	Mr. Farr
Tuesday	,,	16	Andrews	Farr	Blaker
Wednesday	,,	17	Jones	Blaker	Andrews
Thursday	,,	18	Reader	Andrews	Jones
Friday	,,	19	Hay	Jones	Reader
Saturday	,,	20	Farr	Reader	Hay

DATE.			GROUP A. Mr. Justice COHEN *Non-Witness.*	Mr. Justice VAISEY *Witness.*	GROUP B. Mr. Justice MORTON *Witness.*	Mr. Justice UTHWATT *Non-Witness.*
Monday	May	15	Mr. Reader	Mr. Jones	Mr. Blaker	Mr. Andrews
Tuesday	,,	16	Hay	Reader	Andrews	Jones
Wednesday	,,	17	Farr	Hay	Jones	Reader
Thursday	,,	18	Blaker	Farr	Reader	Hay
Friday	,,	19	Andrews	Blaker	Hay	Farr
Saturday	,,	20	Jones	Andrews	Farr	Blaker

Mr. W. H. Thompson, solicitor, of Dudley, left £40,120, with net personalty £23,404.

Mr. Sydney Wales, retired solicitor, of Minchinhampton, left £16,975, with net personalty £11,031.